

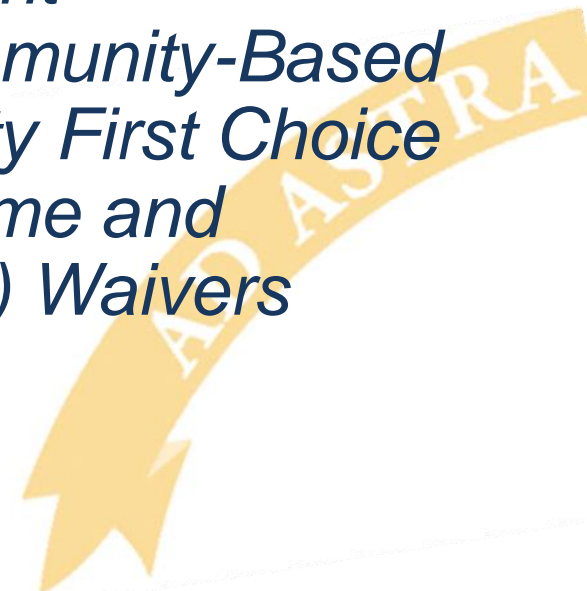


Final HCBS Settings Rule

Susan Fout, HCBS Director
June 10, 2016

Final Rule

- Published in the Federal Register on January 16, 2014 and became effective January 16, 2014
- *Medicaid Program; State Plan Home and Community-Based Services (1915(i), 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act)*



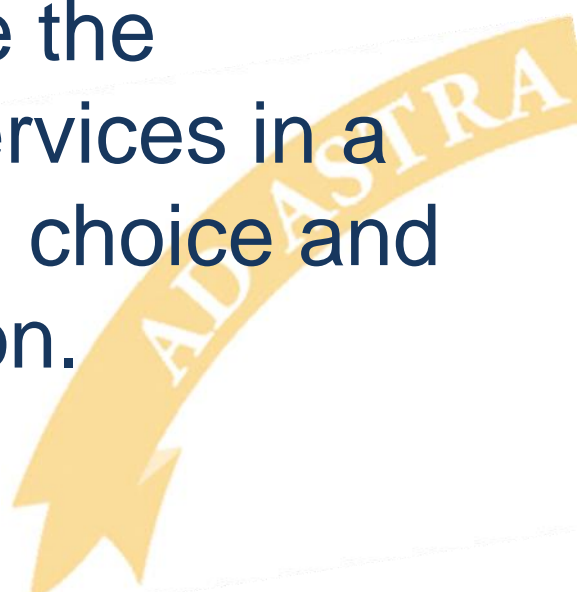
Background

- The final rule established requirements for the qualities of settings that are eligible for reimbursement for the Medicaid Home and Community Based Services provided under 1915(c), 1915 (i) and 1915(k).
- CMS is moving away from defining HCBS settings by what they are not and toward defining them by the **nature and quality of individuals' experience**.
- To enhance the quality of HCBS and provide additional protections, and to ensure full access to the benefits of community.



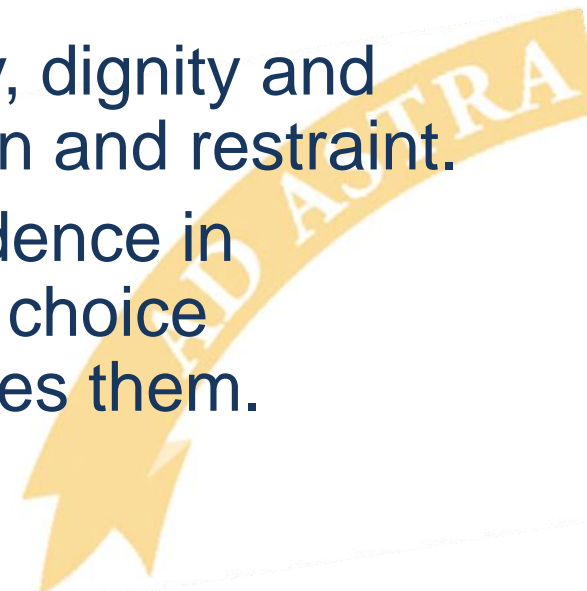
Requirements

- Focus on the quality of the individuals' experiences
- The intent is that individuals receiving Medicaid funded services have the opportunity to receive these services in a manner that protects individual choice and promotes community integration.



Requirements

- Any residential or non-residential setting where individuals live and/or receive HCBS must have the following qualities:
 - The setting is integrated in and supports full access to the greater community.
 - Is selected by the individual
 - Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint.
 - Optimizes autonomy and independence in making life choices; and facilitates choice regarding services and who provides them.



Provider Owned or Controlled

- The individual controls his/her own schedule including access to food anytime;
- The individual can have visitors at any time;
- The setting is physically accessible
- Any modifications to these additional requirements for provider-owned HCBS settings **must be supported by a specific assessed need and justified in the person-centered service plan.**



Kansas Transition Plan

- The plan was submitted but has not been accepted by CMS.
- Kansas will be submitting an amended transition plan.
- The transition plan spoke to surveys sent to HCBS providers.
- Surveys 1 and 2
- On site reviews to be completed by July 31.



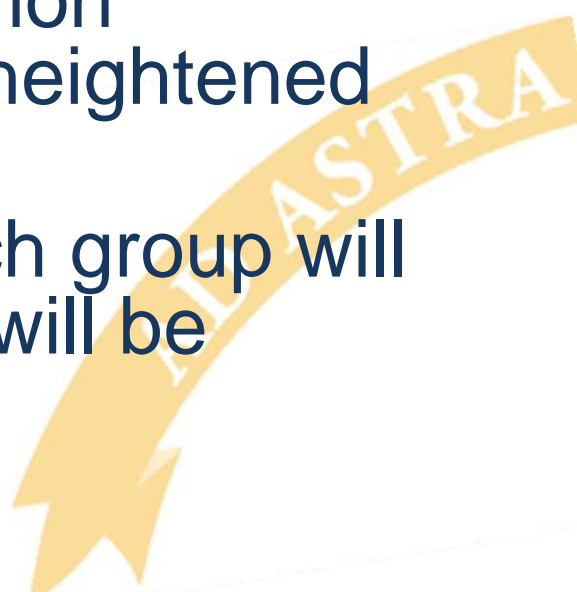
Where we are

- Review of the regulations against the rule regulations
- List of providers who have billed for HCBS services.
- List of adult care homes providing HCBS services.
- Added into the quality review process for HCBS services; the person centered planning requirements and other requirements to monitor and assure compliance.



Where we are

- Two surveys have been completed.
- Completing results.
- A consumer/family survey to be completed.
- Once those are ready the state will determine via survey results providers noting; compliance, partial compliance, non compliance or those requesting heightened scrutiny.
- Depending on the number in each group will determine how the on-site visits will be completed.



What's next?

- Determine where on-site visits will be completed.
- On-site visits to be completed by July 31, 2016.
- Notification to providers of their compliance or non-compliance status.
- Meet with providers to determine a timeline for them to come into compliance.



What's next?

- The state will request timeline for compliance from providers.
- The state will monitor for compliance.
- The transition plan will incorporate the timelines for compliance as well as any provider who will not meet compliance
- A plan for those settings not able to meet compliance must have a transition plan to relocate individuals.



Heightened Scrutiny

- The state can present evidence to CMS demonstrating the setting does not have the qualities of an institution and that it does have qualities of a HCBS setting
- CMS reviews evidence submitted by the state and makes a determination as to whether the evidence is sufficient to overcome the presumption that the setting has the qualities of an institution.

Monitoring

- The state is responsible to monitor for remedial actions.
- Once remedial actions have been achieved setting compliance, the state must continue to engage in monitoring and oversight activities to ensure ongoing compliance.

Monitoring

- The state must monitor for each milestone in the plan for state-level actions to assure the milestone is being met.
 - If a milestone is not being met, take steps to address
 - If a milestone is delayed the state notifies CMS.



Concerns

- Lease
- Day programs
- Apartment or buildings that are segregated from the larger community
- Settings that have qualities of an institution
- Sheltered Workshops
- Group settings
- Provider owned or controlled settings
- Conflict of interest
- Person centered planning (providers)

Day Programs

Regularly scheduled activities in a non-residential setting separate from the participant's residence or other residential living arrangements.

- Includes assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living.
- Focus on enabling the participant to attain or maintain his/her maximum potential.



Sheltered Workshop

- Waiver funding is not available for the provision of vocational services delivered in facility based or sheltered work settings, where individuals are supervised for the primary of producing goods or performing services.



Comments, Ideas, Concerns

- Kansas needs your help for our transition plan and to assure we meet the intent of the rule.



Questions for You

- How do you think the Final Rule will affect you/your providers?



Questions for You

- What are the most significant changes you/providers will have to make?



Questions for You

- What do you see as the timeline for making necessary changes?



Onsite Assessments

- Process overview
- [Assessment Tool](#)



Onsite Assessment Process

- What questions do you have?
- What are your initial thoughts?
- What do you like about the proposed process?
- What concerns you about the process?



Comments and Information

- KDADS website: www.kdads.ks.gov
- Comments can be sent to: HCBS-KS@kdads.ks.gov

